



General Assembly

January Session, 2013

Raised Bill No. 1154

LCO No. 3240



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE ACCIDENTAL FAILURE OF SUIT
STATUTE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-592 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to actions pending on or filed on or after said date*):

4 (a) If any action, commenced within the time limited by law, has
5 failed one or more times to be tried on its merits because of insufficient
6 service or return of the writ due to unavoidable accident or the default
7 or neglect of the officer to whom it was committed, or because the
8 action has been dismissed for want of jurisdiction, or because the
9 action has been otherwise avoided or defeated by the death of a party
10 or for any matter of form, or because the action has been dismissed
11 pursuant to subsection (c) of section 52-190a; or if, in any such action
12 after a verdict for the plaintiff, the judgment has been set aside, or if a
13 judgment of nonsuit has been rendered or a judgment for the plaintiff
14 reversed, the plaintiff, or, if the plaintiff is dead and the action by law
15 survives, [his] the plaintiff's executor or administrator, may commence

16 a new action, except as provided in subsection (b) of this section, for
17 the same cause at any time within one year after the determination of
18 the original action or after the reversal of the judgment.

19 (b) When any action has been brought against an executor or
20 administrator or continued against an executor or administrator after
21 the death of the defendant and has failed for any of the causes listed in
22 subsection (a) of this section, the plaintiff, or [his] the plaintiff's
23 executor or administrator in case a cause of action survives, may
24 commence a new action within six months after the determination of
25 the original action.

26 (c) If an appeal is had from any such judgment to the Supreme
27 Court or Appellate Court, the time the case is pending upon appeal
28 shall be excluded in computing the time as [above] limited in
29 subsections (a) and (b) of this section.

30 (d) The provisions of this section shall apply to any defendant who
31 files a cross complaint in any action, and to any action between the
32 same parties or the legal representatives of either of them for the same
33 cause of action or subject of action brought to any court in this state,
34 either before dismissal of the original action and its affirmance or
35 within one year after the dismissal and affirmance, and to any action
36 brought to the United States circuit or district court for the district of
37 Connecticut which has been dismissed without trial upon its merits or
38 because of lack of jurisdiction in such court. If such action is within the
39 jurisdiction of any state court, the time for bringing the action to the
40 state court shall commence from the date of dismissal in the United
41 States court, or, if an appeal or writ of error has been taken from the
42 dismissal, from the final determination of the appeal or writ of error.

43 (e) The provisions of this section shall apply to any claim against the
44 state for which a notice of claim has been properly and timely filed
45 with the Office of the Claims Commissioner in accordance with
46 sections 4-147 and 4-148 and which thereafter has been dismissed by

47 the Claims Commissioner pursuant to section 4-142.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to actions pending on or filed on or after said date</i>	52-592

Statement of Purpose:

To amend the accidental failure of suit statute to expressly include any medical negligence claim that was dismissed because the plaintiff failed to obtain the written opinion of a similar health care provider.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]